



PUBLIC NOTICE

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CLARIFICATION OF DATA REQUESTED IN *SPECIAL ACCESS NPRM*

WC Docket No. 05-25, RM-10593

In the *Special Access Data Request*, the public was invited to voluntarily submit facilities data to assist the Commission in evaluating various issues raised in the *Special Access NPRM*.¹ Specifically, the public was asked to submit facilities data that would need to be reviewed regardless which analytical framework the Commission chooses to use in resolving the special access proceeding.² In recent *ex parte* meetings discussing the *Special Access Data Request*, parties have suggested clarifications to certain aspects of the data request.³ Because other members of the public may have similar questions, we are issuing this clarification of the *Special Access Data Request*.

First, we clarify that our definition of “Connection” includes a wired line or wireless channel that is used to provide “best effort” services to an End User, *e.g.*, ADSL or cable modem.⁴ The definition of Connection focuses on the underlying facility – not the nature of the services provided over that facility.

Second, we clarify that Providers that own, or lease subject to an indefeasible right of use (IRU) agreement, wired lines or wireless channels that provide a dedicated path as set forth in our definition of Connection should report a Connection even when the End User (or seller of CMRS) obtains service over that Connection from another entity.⁵ For example, an incumbent LEC (ILEC) would report a Connection if it *directly* sells service to a bank between its network and the bank over a fiber strand that it owns or leases subject to an IRU. The ILEC would also report a Connection if, by tariff, contract, or other non-IRU arrangement, a competitive local exchange carrier (CLEC) provides service to the bank

¹ See *Data Requested in Special Access NPRM*, WC Docket No. 05-25, RM-10593, Public Notice, DA 10-2073 (rel. Oct. 28, 2010) (*Special Access Data Request*); see also *Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, *AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 1994 (2005) (*Special Access NPRM*); 47 C.F.R. §§ 1.415, 1.419.

² See *Special Access Data Request*, DA-2073; see also *Parties Asked to Comment on Analytical Framework Necessary to Resolve Issues in the Special Access NPRM*, WC Docket No. 05-25, Public Notice, 24 FCC Rcd 13639 (2009) (seeking comment on the analytical framework in the special access proceeding).

³ See Letter from Colleen Boothby, Counsel for Ad Hoc Telecommunications Users Committee, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-25, RM-10593 (Nov. 29, 2010); see also Letter from Glenn Reynolds, Vice President, Policy, US Telecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-25, RM-10593 (Dec. 1, 2010).

⁴ See *Special Access Data Request*, DA 10-2073 at 4-5, Questions III.B(1) & III.E (asking for Connections by various types of media, such as copper and fiber coax). We use the terms “Connection” and “End User” as those terms are defined in the *Special Access Data Request*. See *id.*, DA 10-2073 at 2-3, Section I (Definitions).

⁵ We use the term “Provider” as that term is defined in the *Special Access Data Request*. See *id.*, DA 10-2073 at 2-3, Section I (Definitions).

over the same fiber strand that the ILEC owns or leases subject to an IRU. Though in the second example the ILEC is selling or otherwise supplying the path to a *carrier*, which is excluded from our definition of End User,⁶ the ILEC still must report the Connection. The ILEC reports the Connection in both instances because it is the ILEC that is providing the physical, dedicated communication path between a Provider's network and a Location.⁷

Providers should not report a Connection if they merely lease, *not subject to an IRU*, wired lines or wireless channels that provide a dedicated path as set forth in our definition of Connection. So, for example, a CLEC would not report as a Connection a UNE loop it uses to provide service to an End User.

Third, question III.C.5 is amended to read "The name of the provider that supplies your connection to the cell site" (*i.e.*, the word "provider" replaces "carrier" and the word "supplies" replaces "provides").

All other aspects and requirements of the *Special Access Data Request* remain unchanged. For further information, contact Marvin Sacks of the Pricing Policy Division, Wireline Competition Bureau at (202) 418-1520.

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⁶ "End User" is defined in the *Special Access Data Request* as "a business, institutional, or government entity that purchases a dedicated communications path for its own use (*i.e.*, not for resale). Carriers are not end users with the exception that CMRS providers are considered end users to the extent they are purchasing dedicated communications to a cell site." *See Special Access Data Request*, DA 10-2073 at 3.

⁷ We use the term "Location" as that term is defined in the *Special Access Data Request*. *See Special Access Data Request*, DA 10-2073 at 2-3.